

Exhibit A

Declaration of Brian S. King

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

N.C., individually and on behalf of A.C., a
minor,

Plaintiff,

vs.

PREMERA BLUE CROSS,

Defendants.

Case No. 2:21-cv-01257 - JHC

**DECLARATION OF BRIAN S. KING
FOR ATTORNEY FEES AND COSTS**

DECLARATION OF BRIAN S. KING

1. I am an attorney over the age of 18 years, a member in good standing of the Utah State Bar, am competent to provide this testimony and I have personal knowledge of the matter of which I testify.

2. I received my J.D. degree in 1985 from the University of Utah. I have practiced law continuously in the State of Utah since 1985.
3. I have practiced law for 38 years, approximately 29 of which have been almost exclusively devoted to representing participants and beneficiaries of employee welfare benefit plans governed by the Employee Retirement Income Security Act of 1974 (“ERISA”).
4. In the past six years my practice has also involved extensive representation of plaintiffs with claims for which I have alleged violations of the federal Mental Health Parity and Addiction Equity Act (“MHPAEA”).
5. My representation of participants and beneficiaries in ERISA cases has been at all phases of welfare benefit claim development. I have been involved assisting plan participants and beneficiaries in preparing claims for submission, appealing denied claims in the pre-litigation appeal process, and litigating in district and appellate courts. I have been an AV rated lawyer by Martindale-Hubbell since 2001.
6. I am admitted to practice before the state and federal courts in Utah. Given my focus on ERISA, over the past 25 plus years I have practiced in many courts across the country and have been admitted to practice before the Supreme Court, the First, Fifth, Sixth, Ninth, Tenth, and Eleventh Circuit Courts of Appeal, and many federal district courts across the country.
7. I have spoken and lectured on various aspects of ERISA at various times and places, to both attorney and non-attorney audiences, many times in the past twenty-five years. I have also testified before the U.S. Department of Labor twice in the last

1 twenty-five years about proposed changes to various aspects of ERISA's claims
2 procedure regulations.

- 3 8. Reported decisions in ERISA cases in which I have represented claimants include
4 *D.K. v. United Behavioral Health*, No. 21-4088, 2023 U.S. App. LEXIS 11794 (10th
5 Cir. 2023); *Lyn M. v. Premera Blue Cross*, 992 F.2d 1051 (10th Cir. 2021) (en banc);
6 *Lyn M. v. Premera Blue Cross*, 966 F.3d 1061 (10th Cir. 2020); *Danny P. v. Catholic*
7 *Health Initiatives*, 891 F.3d 1155 (9th Cir. 2018); *Stephanie C. v. Blue Cross Blue*
8 *Shield of Massachusetts HMO Blue, Inc.*, 813 F.3d 420 (1st Cir. 2016); *Kellogg v.*
9 *Metropolitan Life Ins. Co.*, 549 F.3d 818 (10th Cir. 2008); *Daniel B. v. United*
10 *Healthcare*, 2022 U.S. Dist. LEXIS 176757 (D. Utah 2022); *Theo M. v. Beacon*
11 *Health Options*, 2022 U.S. Dist. LEXIS 177120 (D. Utah Sep. 27, 2022), *David P. v.*
12 *United Healthcare Ins. Co.*, 564 F.Supp.3d 1100 (D. Utah 2021); *M.S. v. Premera*
13 *Blue Cross*, 553 F.Supp.3d 1000 (D. Utah 2021); *Scott M. v. Blue Cross & Blue*
14 *Shield of Mass.*, 528 F.Supp.3d 1200 (D. Utah 2021); *Patrick S. v. United Behavioral*
15 *Health*, 516 F.Supp.2d 1303 (D. Utah 2021); *Harvey T. v. Aetna Life Ins. Co.*, 508
16 F.Supp.2d 1088 (D. Utah 2020); *James C. v. Aetna Health & Life Ins. Co.*, 499
17 F.Supp.3d 1105 (D. Utah 2020); *Raymond M. v. Beacon Health Options, Inc.*, 463
18 F.Supp.3d 1250 (D. Utah 2020); *Steve C. v. Blue Cross & Blue Shield of Mass., Inc.*,
19 450 F.Supp.3d 48 (D. Mass. 2020); *Kerry W. v. Anthem Blue Cross & Blue Shield*,
20 444 F.Supp.3d 1305 (D. Utah 2020); *Christine S. v. Blue Cross Blue Shield of New*
21 *Mexico*, 428 F.Supp.3d 1209 (D. Utah 2019); *Michael W. v. United Behavioral*
22 *Health*, 420 F.Supp.3d 1207 (D. Utah. 2019); *Foust v. Lincoln National Life Ins. Co.*,
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1 416 F.Supp.3d 1319 (D. Utah 2019); *Michael D. v. Anthem Health Plans of Kentucky,*
2 *Inc.*, 369 F.Supp.3d 1159 (D. Utah 2019); *Joseph & Gail F. v. Sinclair Services Co.*,
3 158 F.Supp.3d 1239 (D. Utah 2016); *Lyn M. v. Premera Blue Cross*, 2021 U.S. Dist.
4 LEXIS 230373 (D. Utah 2021); *D.K. v. United Behavioral Health*, 2021 U.S. Dist.
5 LEXIS 117501 (D. Utah 2021); *Charles W. v. Regence Bluecross Blueshield of*
6 *Oregon*, 2019 U.S. Dist. LEXIS 167184 (D. Utah 2019); *Timothy D. v. Aetna Health*
7 *& Life Ins. Co.*, 2019 U.S. Dist. LEXIS 100388 (D. Utah 2019); *B.D. v. Blue Cross*
8 *Blue Shield of Georgia*, 2018 U.S. Dist. LEXIS 16993 (D. Utah 2018); *William G. v.*
9 *United Healthcare*, 2017 U.S. Dist. LEXIS 85182 (D. Utah 2017); *John H. v. United*
10 *Healthcare*, 2017 U.S. Dist. LEXIS 73593 (D. Utah 2017); and *Lynn R. v.*
11 *ValueOptions*, 2017 U.S. Dist. LEXIS 134367 (D. Utah 2017).

12 9. My practice consists predominantly of representing ERISA plaintiffs in their denied
13 health, long-term disability, and life insurance claims. As in this case, I usually
14 represent my clients on a contingent fee basis. However, I have some clients who pay
15 me by the hour, and I bill those clients and regularly collect at the hourly rate I
16 identify in paragraph 12.

17 10. I am generally familiar with the hourly rates charged across the nation by ERISA
18 attorneys, as I have practiced in many districts and circuits around the country and I
19 am familiar with a number of attorneys across the country whose practices focus on
20 ERISA.
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- 1 11. Very few attorneys across the country regularly represent claimants in cases that
2 involve ERISA. It is an extraordinarily difficult and frustrating area in which to
3 practice law and represent claimants.
- 4 12. My current hourly rate for representation of ERISA plaintiffs on a non-contingent fee
5 basis is \$600 per hour.
- 6 13. The \$600 rate represents not just a rate at which I charge but one at which I actually
7 collect a fee when I bill by the hour. I rarely reduce or cut to any degree my hourly
8 rate below \$600 an hour when I do work on an hourly basis. In the past two years I
9 have charged and collected for work at that hourly rate on several occasions.
- 10 14. In a recent case where my \$600 rate was unopposed, the federal district court in Utah
11 found my \$600 rate reasonable. *See. M.S. v. Premera Blue Cross*, No. 2:19-cv-00199-
12 RJS-CMR, 2022 U.S. Dist. LEXIS 110975, at *2 (D. Utah June 21, 2022)
- 13 15. I am familiar with the hourly rates of attorneys of various levels of experience,
14 paralegals, and legal assistants across the country in this area of work. Based on
15 national standards, the nature of my practice and the specialized knowledge required
16 to practice in this area of law, I believe the hourly rates identified in this declaration
17 for myself and my associates are reasonable for my work and the work of my
18 associate attorneys.
- 19 16. During the time they were working on this case, the hourly rate for my associate,
20 Brent Newton, was \$350.
- 21 17. During the time they were working on this case, the hourly rate for my associate,
22 Samuel Hall, was \$325.
- 23

1 18. During the time they were working on this case, the hourly rate for our local counsel,
2 Ele Hamburger, was \$750.

3 19. The firm's attorneys keep track of the time for cases the law firm handles, including
4 contingent fee cases. A copy of the ledger for work I performed in this matter and that
5 is related to working on this case is attached at the conclusion of this declaration.

6 20. My total hours in this case are 75.5. Multiplied by my reasonable hourly rate of \$600,
7 the award of attorney fees I am requesting for my time is \$45,300.

8 21. The total hours for the work in this matter performed by myself, Brent Newton, and
9 Samuel Hall are 174.5. With the addition of the time of our local counsel, Ele
10 Hamburger, and multiplied by the hourly rates I have identified in this Declaration,
11 the total amount sought in the Plaintiffs' Motion for Award of Attorney Fees is
12 \$86,322.50.

13 22. The total amount of costs advanced by the Firm is \$400, the filing fee for the
14 Complaint in this case. Pursuant to the provisions of 28 U.S.C. §§ 1920 and 1924,
15 that amount is recoverable in this case.

16 23. I believe the time the firm put into the case was necessary to obtain the results we
17 realized in the case and was reasonable and appropriate under the circumstances of
18 this case.

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24. I certify under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746(2).

DATED this 7th day of June, 2023.

/s/ Brian S. King

Brian S. King, *Admitted Pro Hac Vice*

Brent J. Newton

Samuel M. Hall

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BSK time sheet for N.C. & A.C. v. Premera Blue Cross

10/22/20: Review referral information from DMI for N.C. and A.C.; email to Gaby re: working up summary for file: .5

10/30/20: prepare summary of case file with Gaby: .6

11/2/20: Arrange for conference call with client (.2); review file materials (1.0): 1.2

11/13/20: Conference call with new client about sign up of case (.9); email to Kit (.2): 1.1

11/20/20: Prepared fee contract for client (.3); email to client re: fee agreement (.2): .5

7/6/21: Review file to prepare Complaint (1.3); draft Complaint (4.2): 5.5

7/8/21: email to client re: request for review of draft Complaint: .2

7/12/21: Email from client re: participation in class action against Premera (.2); telephone call with client (.5): .7

7/29/21: Revise and finalize draft Complaint for case: .7

8/16/21: Review civil standing order from Judge Parrish: .3

8/20/21: Prepare roadmap of documents in case tied to documents in Complaint: .9

1	8/30/21: Review motion to transfer venue and memo in support and email to defense counsel: .2	
2	9/3/21: Review stipulated motion to transfer venue and proposed order: .3	
3	9/15/21: Review Court notice from W.D. of Washington re: getting local counsel and being admitted Pro Hac Vice: .2	
4	9/17/21: Emails to and from Mel Crawford re: acting as local counsel and terms of working together: .7	
5	10/14/21: Review Order regarding initial disclosures and joint status report: .4	
6	10/25/21: Prepare and email to defense counsel draft of joint status report: .5	
7	10/26/21: Review initial disclosures from Premera: .8	
8	10/28/21: Emails to and from local counsel re: form of our initial disclosures: .4	
9	11/4/21: Finalize and send to defense counsel our initial disclosures: .5	
10	11/22/21: Draft email to defense counsel re: extension of deadline to add parties and amend pleadings: .4	
11	12/7/21: Review motion to dismiss filed by Premera: .8	
12	12/15/21: Emails to and from Premera Counsel re: extension of deadline to add parties: .3	
13	12/31/21: Emails to and from local counsel re: review of draft opposition memo: 1.4	
14	1/2/22: Review draft of opposition memo on Motion to Dismiss: 1.2	
15	1/3/22: Revise, edit, and finalize opposition memo on Motion to Dismiss: 2.5	
16	2/4/22: Emails from and to local counsel switching local counsel for the case: .4	
17	2/7/22: Email to Ele Hamburger re: acting as local counsel in case (.3); draft revised fee agreement for client (.4); email to and from client (.3): 1.0	
18	2/25/22: Review draft requests for admission, interrogatories, and requests for production of documents: .8	
19	4/4/22: Emails to and from Ele Hamburger re: extension of time for adding parties and amending pleadings: .2	
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1	5/23/22: Review draft of M&C letter to Premera counsel re: discovery issues:	.3
2	6/10/22: Review Premera notice of withdrawal of Motion to Dismiss:	.2
3	6/18/22: Review file for case re: settlement discussion (2.5); draft email to client re: process for	
4	settlement discussions and evaluations of strengths and weaknesses of case (1.3):	3.8
5	6/20/22: Telephone call with Nancy re: questions about settlement number and process for	
6	discussing negotiated resolution of case:	.9
7	6/22/22: Email to Premera counsel re: opening number to settle case:	.5
8	7/6/22: Review draft of Motion for Summary Judgment:	1.7
9	7/7/22: Edit, revise, and finalize Motion for Summary Judgment:	2.5
10	7/29/22: Review Motion for Summary Judgment filed by Premera and provided notes to Brent	
11	Newton:	1.8
12	8/1/22: Edit, revise, and finalize our opposition to the Premera Motion for Summary Judgment:	4.0
13	8/3/22: Review Premera Opposition Memo; drafting Reply Memo:	4.6
14	8/4/22: Draft and Edit our Reply Memo in support of Plaintiff's Motion for Summary Judgment:	5.6
15	8/5/22: Edit, Revise, and finalize our Reply to Premera Opposition Memo:	3.2
16	8/31/22: Telephone conference with Court re: setting time for hearing on Motion for Summary	
17	Judgment:	.2
18	12/4/22: Review file to prepare for oral argument on Motion for Summary Judgment (4.2); travel	
19	to Seattle (4.0):	8.2
20	12/5/22: Present oral argument for case in Seattle; travel back to SLC:	5.5
21	2/27/23: Conference with Brent Newton re: supplemental briefing:	.2
22	3/31/23: Review decision (.7); email to and from client (.2):	.9
23	4/16/23: Email to Premera counsel re: preparing form of judgment:	.3

1	4/28/23: Email to Premera counsel re: form of judgment:	.2
2	4/30/23: Preparation of hours for case:	2.1
3	5/1/23: Emails to and from defense counsel re: Benefit amount at issue (.5); work through	
4	calculation of benefits (.8); emails with defense counsel re: extension of time for submitting	
5	proposed judgment and draft stipulation and proposed order (.9):	2.2
6	5/5/23: T/C's with MCC re: terms of the policy and claim calculation from Premera (1.6); emails	
7	to and from Premera counsel re: benefit amount (.5); preparation of draft joint proposed order	
8	(.4):	2.5
9	5/6/23: Emails to and from defense counsel re: entry of draft proposed Judgment	.4
10	5/18/22: Emails to and from Ele Hamburger re: time for motion for atty fees:	.5
11	6/1/22: Emails to Marie Casciari and Ele Hamburger re: declarations to support Fee Motion	
12	(0.3); editing and revising Motion for Award of Fees (1.6)	1.9
13	6/7/23: Review Draft Casciari declaration (0.3) Email to and from Ele re: time and hourly rates	
14	for motion (0.2); editing and revising motion and my declaration (1.2)	1.7
15	Total Hours:	75.5
16	Times requested \$600 hourly rate:	\$45,300